

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

v.

ARTURO GONZALEZ-RENTERIA,

Defendant.

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CRIMINAL ACTION NO.
1:17-CR-292-ELR-AJB

ORDER

This matter is before the Court for consideration of Magistrate Judge Alan J. Baverman's Report and Recommendation ("R&R") [Doc. 357]. Importantly, Judge Baverman recommends that Defendant's Motion to Dismiss for Violation of Defendant's Statutory Right to Speedy Trial [Doc. 343] be granted and that this matter be dismissed without prejudice. In the time period allotted for the parties to object to the R&R, Defendant by and through counsel, filed an objection, in which he agrees that the case should be dismissed, but argues that it should be dismissed with prejudice. [Doc. 362]. The Court's ruling is set forth below.

I. Standard of Review

The district court reviewing an R&R “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). If neither party objects, the district judge need only review the R&R for clear error and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”

Id. A party objecting to an R&R “must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court.” United States v. Schultz, 565 F.3d 1353, 1361 (11th Cir. 2009) (quoting Marsden v. Moore, 847 F.2d 1536, 1548 (11th Cir. 1988)) (internal quotation marks omitted.). If there are no specific objections made to factual findings made by the magistrate judge, there is no requirement that those findings be reviewed *de novo*. Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11th Cir. 1993). Absent objection, the district court judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge],” 28 U.S.C. § 636(b)(1)(C), and may accept the recommendation if it is not clearly erroneous or contrary to the law. Fed. R. Crim. P. 59. In accordance with 28 U.S.C. § 636(b)(1)(C), and Rule 59 of the Federal Rules of Criminal Procedure, the Court has conducted a *de novo* review of those portions of the R&R to which Defendants object and has reviewed the remainder

of the R&R for plain error. See United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

II. Discussion

The only issue here is whether the case should be dismissed with or without prejudice. In his objection, Defendant challenges Judge Baverman's analysis of the three factors of consideration for a determination pursuant to §3162(a): 1) the seriousness of the offense; 2) the facts and circumstances of the case which led to the dismissal; and 3) the impact of a re-prosecution on the administration of justice. 18 U.S.C. §3162(a)(2). However, after conducting a *de novo* review of those portions of the R&R to which Defendant objects and reviewing the remainder of the R&R for plain error, this Court finds that the Magistrate Judge's factual and legal conclusions are correct. Thus, the Court adopts the R&R as the opinion of this Court.

III. Conclusion

The Court **OVERRULES** Defendant's objection [Doc 362] and **ADOPTS** the R&R [Doc. 357] as the Opinion and Order of this Court. Defendant's Motion to Dismiss for Violation of Defendant's Statutory Right to Speedy Trial [Doc. 343] is **GRANTED** and Defendant's case is **DISMISSED without**

prejudice.

SO ORDERED, this 13th day of May, 2022.



Eleanor L. Ross
United States District Judge
Northern District of Georgia